

ORDINANCE NO. 05-77

**AN ORDINANCE OF TOWN OF MIAMI LAKES, FLORIDA;
ADOPTING A REVISED PLANNING AND ZONING FEE
SCHEDULE REPLACING IN ITS ENTIRETY THE
PLANNING AND ZONING FEE SCHEDULE IN MIAMI-DADE
COUNTY ORDINANCE NO. 99-137 AS APPLIED TO THE
TOWN; ESTABLISHING A COST RECOVERY
ADMINISTRATIVE PROGRAM TO DEFRAY THE COSTS OF
SERVICES RELATING TO THE REVIEW OF CERTAIN
TYPES OF APPLICATIONS FOR DEVELOPMENT
APPROVALS BY TOWN STAFF; PROVIDING FOR AN
APPEAL PROCESS; PROVIDING FOR SEVERABILITY;
PROVIDING FOR INCLUSION IN THE CODE; AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town of Miami Lakes, Florida (the "Town") has conducted an analysis of estimated actual costs incurred by the Town for the review of applications for development approvals; and

WHEREAS, the Town Council finds that it is in the best interests of the residents of the Town to charge the true costs for services relating to the review of applications for development approvals within the Town directly upon those persons deriving the benefit of the review.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Amendments to Planning and Zoning Fee Schedule. The Planning and Zoning Fee Schedule attached as Exhibit "A" shall replace in its entirety the Planning and Zoning Fee Schedule currently listed in Miami-Dade County Ordinance No. 99-137, as applied to the Town.

Section 3. Cost Recovery. Division 1.5 of Article I of Chapter ____, of the Town Code is hereby created to read as follows:

DIVISION 1.5 COST RECOVERY

- (a) **Intent and Purpose.** The intent and purpose of this Division is to ensure that the various costs incurred by the Town, including its outside consultants, in reviewing and processing certain applications for development approvals is directly absorbed by those persons deriving the benefit of the review, not the general public.
- (b) **Cost Recovery Imposed.** An administrative fee for the various costs incurred by Town staff and outside consultants for the processing and review of applications, submissions, or requests concerning development, utilization, or improvement of property in the Town, such fee to be equal in amount to the Town's actual costs, in terms of staff and outside consultants' time expended in such review and processing, including advertising and similar directly related charges is imposed. The types of applications for development approval that are subject to the provisions of this Division include: Re-Zonings, Amendments to the Text of the Land Development Regulations, Amendments to the Comprehensive Plan, Amendments to the Future Land Use Map and Preliminary and Final Plats as specified in Exhibit "A". The Town Council may, by resolution, amend the list of development approvals that are subject to Cost Recovery.
- (c) **Cost Recovery Deposit.** Any person who files any application for a development approval which necessitates Town staff or outside consultant review and processing shall pay, prior to or at the time the application is made, an initial cost recovery deposit which shall be credited toward the fee charged for such review and processing, and shall pay additional deposits as may be required from time to time. A debit based upon the actual time expended reviewing an application and the applicable hourly rate shall be charged against the cost recovery deposit.

- (d) **Supplemental Deposit.** The Town shall monitor the cost recovery deposit on a periodic basis. Whenever the balance is zero or negative, a supplemental deposit shall be required. The Town shall notify the applicant when a supplemental deposit is required. The amount of the supplemental deposit shall be determined by the Town Manager or designee, and shall be equal to the costs estimated to complete review of the application. The Town shall not issue any development approval until the required supplemental deposit has been deposited with the Town.
- (e) **Return of Cost Recovery Deposit.** Within 60 days from the date that the applicant receives a Certificate of Occupancy or other applicable final approval from the Town, and the Administrative Official determines that no further action is necessary for the review and processing of the application or the applicant voluntarily withdraws the application, the Town shall refund any remaining cost recovery funds to the applicant. In no event, however, shall the Town refund any remaining cost recovery funds if the applicant fails to obtain a development approval within one (1) calendar year of applying for the approval.
- (f) **Records of Work Performed.** The Town shall maintain records of the time expended and tasks conducted regarding each application.
- (g) **Review and Appeal Process.** In the event an Applicant is financially unable to pay the Cost Recovery Deposit, or believes the Town overcharged the Applicant for the work performed in reviewing and processing an Application, the Applicant may:
1. Request that the Town Manager or designee waive the Cost Recovery Deposit on the basis of a bona fide financial hardship; or
 2. Request a review by the Town Manager or designee of the work performed by the Town.

Upon a determination by the Town Manager or designee that the Applicant has demonstrated a bona fide financial hardship, or a miscalculation concerning the work performed by the Town on the Application; the Town Manager or designee may waive or refund a portion or all of the Cost Recovery Deposit.

- (h) **Applicability of Provisions.** This cost recovery program shall not apply to development projects that are originally initiated by or on behalf of the Town.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Town Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Miami Lakes, Florida, that the sections of the Ordinance may be renumbered or relettered to accomplish to such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember Mary Collins, who moved its adoption on first reading. This motion was seconded by Councilmember Nancy Simon, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	yes
Councilmember Robert Meador, II	yes
Councilmember Michael Pizzi	absent
Councilmember Nancy Simon	yes
Councilmember Peter Thomson	yes
Vice Mayor Roberto Alonso	yes

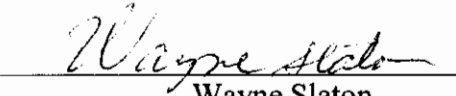
Mayor Wayne Slaton yes

PASSED AND ADOPTED on first reading this 8th day of September, 2005.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on second reading. The motion was seconded by Councilmember Alonso, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador, II	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Nancy Simon	<u>yes</u>
Councilmember Peter Thomson	<u>yes</u>
Vice Mayor Roberto Alonso	<u>yes</u>
Mayor Wayne Slaton	<u>yes</u>


PASSED AND ADOPTED on second reading this 22nd day of September, 2005.


Wayne Slaton
MAYOR

ATTEST:


Debra Eastman, MMC
TOWN CLERK

Approved as to form and legality for the use and benefit of the Town of Miami Lakes only:


Weiss Serota Helfman
Pastoriza Cole & Boniske, P.A.
TOWN ATTORNEY